

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 629

Introduced by Senator Soto

February 21, 2003

An act to amend Section 31720.7 of, and to add Section 53222.1 to, the Government Code, and to amend Section 3212.8 of the Labor Code, relating to health care professionals.

LEGISLATIVE COUNSEL'S DIGEST

SB 629, as amended, Soto. Licensed health care professionals: blood-borne infectious disease.

The County Employees Retirement Law of 1937 provides that, for purposes of qualification for disability retirement benefits, the development of a blood-borne infectious disease, as defined, by specified safety members, probation officers, firefighters, and members in active law enforcement shall be presumed, as specified, to arise out of, and in the course of, employment.

This bill would make that presumption applicable to licensed health care professionals, as defined, who have a documented incident involving a "sharp" object, as defined, with exposure to human blood or bodily fluids contaminated with blood, as specified. The bill would also authorize the County of San Luis Obispo and the City and County of San Francisco to provide disability retirement benefits, as specified, to licensed health care professionals, as defined, who have a documented incident involving a "sharp" object with exposure to human blood or bodily fluids contaminated with blood, as specified.

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law provides that, in the case of certain state and local

firefighting and law enforcement personnel, the term “injury” includes a blood-borne infectious disease, as defined, that develops or manifests itself during a period while in the service of the governmental entity, and establishes a disputable presumption in this regard.

This bill would make that definition of “injury” and that disputable presumption applicable to licensed health care professionals, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31720.7 of the Government Code is
2 amended to read:

3 31720.7. (a) If a safety member, a firefighter, a county
4 probation officer, a member in active law enforcement, or a
5 licensed health care professional, as defined in subdivision (b) of
6 Section 5193 of Title 8 of the California Code of Regulations, who
7 has completed five years or more of service under a pension system
8 established pursuant to Chapter 4 (commencing with Section
9 31900) or under a pension system established pursuant to Chapter
10 5 (commencing with Section 32200), or both, or under this
11 retirement system, under the Public Employees’ Retirement
12 System, or under a retirement system established under this
13 chapter in another county, develops a blood-borne infectious
14 disease, the disease so developing or manifesting itself in those
15 cases shall be presumed to arise out of, and in the course of,
16 employment. The disease so developing or manifesting itself in
17 those cases shall in no case be attributed to any disease existing
18 prior to that development or manifestation.

19 (b) Any safety member, firefighter, county probation officer,
20 member active in law enforcement, or licensed health care
21 professional described in subdivision (a) who is permanently
22 incapacitated for the performance of duty as a result of a
23 blood-borne infectious disease shall receive a service-connected
24 disability retirement.

25 (c) The presumption described in subdivision (a) is rebuttable
26 by other evidence. Unless so rebutted, the board is bound to find
27 in accordance with the presumption. This presumption shall be
28 extended to a member following termination of service for a



1 period of three calendar months for each full year of the requisite
2 service, but not to exceed 60 months in any circumstance,
3 commencing with the last date actually worked in the specified
4 capacity.

5 (d) “Blood-borne infectious disease,” for purposes of this
6 section, means a disease caused by exposure to pathogenic
7 microorganisms that are present in human blood that can cause
8 disease in humans, including, but not limited to, those pathogenic
9 microorganisms defined as blood-borne pathogens by the
10 Department of Industrial Relations.

11 (e) “Member in active law enforcement,” for purposes of this
12 section, means members employed by a sheriff’s office, by a police
13 or fire department of a city, county, city and county, district, or by
14 another public or municipal corporation or political subdivision or
15 who are described in Chapter 4.5 (commencing with Section 830)
16 of Title 3 of Part 2 of the Penal Code or who are employed by any
17 county forestry or firefighting department or unit, except any of
18 those members whose principal duties are clerical or otherwise do
19 not clearly fall within the scope of active law enforcement services
20 or active firefighting services, such as stenographers, telephone
21 operators, and other office workers, and includes a member
22 engaged in active law enforcement who is not classified as a safety
23 member.

24 (f) As used in this section, a “licensed health care
25 professional” means a person who, in addition to meeting the
26 description in subdivision (a), is an employee of a county or
27 district who, in the course of his or her employment, has a
28 documented incident involving a “sharp” object, as defined in
29 subdivision (b) of Section 5193 of Title 8 of the California Code
30 of Regulations, with exposure to human blood or other bodily
31 fluids contaminated with blood, including, but not limited to, a
32 registered nurse, licensed vocational nurse, certified nurse aid,
33 clinical laboratory technologist, dental hygienist, dentist,
34 *optometrist*, or physician.

35 SEC. 2. Section 53222.1 is added to the Government Code, to
36 read:

37 53222.1. (a) A licensed health care professional, as
38 defined in subdivision (b) of Section 5193 of Title 8 of the
39 California Code of Regulations, employed by the County of San
40 Luis Obispo or by the City and County of San Francisco who, as

1 the result of performing his or her job duties, has a documented
2 incident involving a “sharp” object, as defined in subdivision (b)
3 of Section 5193 of Title 8 of the California Code of Regulations,
4 with exposure to human blood and other potentially infectious
5 materials shall, upon adoption of a resolution of the board of
6 supervisors so declaring, be entitled to the disability retirement
7 benefits provided for safety employees of the county or city and
8 county, if he or she otherwise meets the eligibility criteria for those
9 benefits.

10 (b) “Licensed health care professional,” as described in
11 subdivision (a) and for purposes of this section, means any
12 employee of the county or city and county who, in the course of
13 his or her employment, has a documented incident involving a
14 “sharp” object, as defined in subdivision (b) of Section 5193 of
15 Title 8 of the California Code of Regulations, with exposure to
16 human blood or other bodily fluids contaminated with blood,
17 including, but not limited to, a registered nurse, licensed
18 vocational nurse, certified nurse aid, clinical laboratory
19 technologist, dental hygienist, dentist, *optometrist*, or physician.

20 SEC. 3. Section 3212.8 of the Labor Code is amended to read:

21 3212.8. (a) In the case of members of a sheriff’s office, of
22 police or fire departments of cities, counties, cities and counties,
23 districts, or other public or municipal corporations or political
24 subdivisions, or individuals described in Chapter 4.5
25 (commencing with Section 830) of Title 3 of Part 2 of the Penal
26 Code, whether those persons are volunteer, partly paid, or fully
27 paid, and in the case of active firefighting members of the
28 Department of Forestry and Fire Protection, or of any county
29 forestry or firefighting department or unit, whether voluntary,
30 fully paid, or partly paid, excepting those whose principal duties
31 are clerical or otherwise do not clearly fall within the scope of
32 active law enforcement service or active firefighting services, such
33 as stenographers, telephone operators, and other office workers,
34 and in the case of licensed health care professionals, as defined in
35 subdivision (b) of Section 5193 of Title 8 of the California Code
36 of Regulations, the term “injury” as used in this division, includes
37 a blood-borne infectious disease when any part of the blood-borne
38 infectious disease develops or manifests itself during a period
39 while that person is in the service of that office, staff, division,
40 department, or unit. The compensation that is awarded for a

1 blood-borne infectious disease shall include, but not be limited to,
2 full hospital, surgical, medical treatment, disability indemnity, and
3 death benefits, as provided by the workers' compensation laws of
4 this state.

5 (b) The blood-borne infectious disease so developing or
6 manifesting itself in those cases shall be presumed to arise out of
7 and in the course of the employment or service. This presumption
8 is disputable and may be controverted by other evidence, but
9 unless so controverted, the appeals board is bound to find in
10 accordance with it. That presumption shall be extended to a person
11 covered by subdivision (a) following termination of service for a
12 period of three calendar months for each full year of service, but
13 not to exceed 60 months in any circumstance, commencing with
14 the last date actually worked in the specified capacity.

15 (c) The blood-borne infectious disease so developing or
16 manifesting itself in those cases shall in no case be attributed to any
17 disease existing prior to that development or manifestation.

18 (d) For the purposes of this section, "blood-borne infectious
19 disease" means a disease caused by exposure to pathogenic
20 microorganisms that are present in human blood that can cause
21 disease in humans, including those pathogenic microorganisms
22 defined as blood-borne pathogens by the Department of Industrial
23 Relations.

24 (e) As used in this section, "licensed health care professional,"
25 as described in subdivision (a), means any employee of a city,
26 county, city and county, or district who, in the course of his or her
27 employment, has a documented incident involving a "sharp"
28 object, as defined in subdivision (b) of Section 5193 of Title 8 of
29 the California Code of Regulations, with exposure to human blood
30 or other bodily fluids contaminated with blood, including, but not
31 limited to, a registered nurse, licensed vocational nurse, certified
32 nurse aid, clinical laboratory technologist, dental hygienist,
33 dentist, *optometrist*, or physician.

